



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

DFW
ph

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,404	12/27/2001	Jeffrey Clifford Mogul	9772-0340-999	8549

7590 02/06/2006
Gary S. Williams
PENNIE & EDMONDS LLP
3300 Hillview Avenue
Palo Alto, CA 94304



EXAMINER

GILLIS, BRIAN J

ART UNIT PAPER NUMBER

2141

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,404

Applicant(s)

MOGUL ET AL.

Examiner

Brian J. Gillis

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10 and 37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims refer to a computer program product. The specification refers to a computer program product not tangibly embodied by the transmission of a computer data signal on a carrier wave. The computer program product must be in a tangible embodiment such as a storage medium and not a transmission medium

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-31 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shatil et al (US Patent #6,728,840) in view of Saxena (US PG PUB #US2002/0103778).

Claims 1, 11 and 21 disclose a computer program product, method and system for performing energy efficient data prefetching in conjunction with a client computer system comprising of a prefetch prediction model and engine, and instructions for

Art Unit: 2141

storing and fetching files in a queue. Shatil et al teaches of a prefetch prediction model, prefetch prediction engine and instructions for storing prefetched files in a queue (column 12, lines 10-17, 26-30, column 13, lines 10-15, 40-44). It fails to teach of fetching the files prefetched from a queue. Saxena teaches of storing prefetched files in a cache and when requested sending the file to the client from the cache (paragraph 42, lines 6-18, paragraph 43, lines 1-5).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the storing and retrieving prefetched files method in Saxena with the prefetch prediction model and engine in Shatil et al because prefetching of web pages can provide a user increased performance (Saxena, paragraph 6, lines 8-11).

Claims 2, 12, and 22 disclose the computer program product, method and system of claims 1, 11, and 21 including a model updater, for updating the energy usage parameters of the prefetch prediction model in accordance with results of past prefetch decisions. Shatil et al teaches of a prefetch prediction model, prefetch prediction engine and instructions for storing prefetched files in a queue, and a prefetch optimizer for modifying the prefetch database in response to analysis of cache feedback (column 12, lines 10-17, 26-30, column 13, lines 10-15, 40-44, column 19, lines 40-45). It fails to teach of fetching the files prefetched from a queue. Saxena teaches of storing prefetched files in a cache and when requested sending the file to the client from the cache (paragraph 42, lines 6-18, paragraph 43, lines 1-5).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the storing and retrieving prefetched files method in Saxena with the model, engine, and optimizer in Shatil et al because prefetching of web pages can provide a user increased performance (Saxena, paragraph 6, lines 8-11).

Claims 3, 4, 13, 14, 23, and 24 disclose the computer program product, method and system of claims 1, 11, and 21, wherein the prefetch criteria include criteria that are a function of a current energy supply level and cache fullness of the client computer system. Shatil teaches of a prefetch prediction model and engine, and using various criteria to prefetch files (column 12 lines 26-30, column 13, lines 10-15, column 15, lines 10-18, 27-32, 55-59). It fails to teach of fetching the files prefetched from a queue. Saxena teaches of storing prefetched files in a cache and when requested sending the file to the client from the cache (paragraph 42, lines 6-18, paragraph 43, lines 1-5).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the storing and retrieving prefetched files method in Saxena with the model, engine, and prefetch lookup process in Shatil et al because it significantly increases the optimal use of cache memory systems within data storage systems which increases overall system performance (Shatil et al, column 12, lines 41-44).

Claims 5, 15, and 25 disclose the computer program product, method, and system of claim 1, 11 and 21 including receiving a message from a server that includes information identifying at least one of the specified files. Shatil et al teaches of a prefetch prediction model and engine (column 12, lines 26-30, column 13, lines 10-15). It fails to teach of one of the specified files being identified in a message received from the server. Saxena teaches of logs of an origin server containing information of prefetched files already retrieved (paragraph 37, lines 1-8).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the logs of the origin server in Saxena with the prediction model and engine of Shatil et al because this helps the prefetch module to prefetch important web pages so users experience increased performance with respect to portions of the origin server (Saxena, paragraph 32, lines 6-9).

Claims 6, 16, and 26 disclose the computer program product, method and system of claims 1, 11, and 21 including the executing of the at least one application including identifying at least one of the specified files. Shatil teaches of a prefetch prediction model and engine (column 12, lines 26-30, column 13, lines 10-15). It fails to teach of an application identifying the prefetched file. Saxena teaches of the web pages being linked to a retrieved web page in the browser. It is widely known in the art that a web page may have links to other web pages that allow a user to view the linked web page (paragraph 48, lines 3-6).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the linked web pages in Saxena with the prediction model and engine of Shatil et al because this helps the prefetch module to prefetch important web pages so users can experience increased performance with respect to portions of the origin server (Saxena, paragraph 32, lines 6-9).

Claims 7, 17, and 27 disclose the computer program product, method and system of claims 1, 16, and 21 further comprising of storing in a fetch queue entries identifying the files specified by the at least one application program to be fetched; and scheduling downloading of files identified by entries in the fetch queue and files identified by entries in the prefetch queue, giving priority to the files identified by the entries in the fetch queue. Shatil teaches of a prefetch prediction model and engine (column 12, lines 26-30, column 13, lines 10-15). It fails to teach of storing of queue entries identified by the application program to be fetched and a scheduler for scheduling of the downloading of files. Saxena et al teaches of a prefetch module, which determines whether related web pages are already cached and may retrieved one of the uncached pages. Saxena also teaches of the prefetch module using a graph of prefetched pages to adjust priority (paragraph 26, lines 5-9, paragraph 27, lines 1-6).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the prefetch module in Saxena with the prefetch prediction model and engine in Shatil et al because this provides increased service to users requesting higher priority web pages (Saxena, paragraph 26, lines 7-9).

Claims 8, 18, and 28 disclose the computer program product, method and system of claims 7, 17, and 27 further comprising: determining whether to download a file identified by an entry in the prefetch queue in accordance with various predefined scheduling criteria. Shatil teaches of a prefetch prediction model and engine (column 12, lines 26-30, column 13, lines 10-15). It fails to teach of a scheduler to download files in a prefetch queue according to various criteria. Saxena teaches of a graph, which is a logical construct that allows pages to be scheduled bases on relative weighting of relationships between web pages on a server (column 19, lines 8-10).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the graph in Saxena with the prefetch prediction model and engine in Shatil et al because prefetching of web pages can provide a user increased performance (Saxena, paragraph 6, lines 8-11).

Claims 9, 19, and 29 disclose the computer program product, method and system of claims 1, 11, and 21 further comprising: re-evaluating entries in the queue and flushing from the queue any entries in the queue deselected by the re-evaluating. Shatil et al teaches of a prefetch prediction model and engine (column 12, lines 26-30,

Art Unit: 2141

column 13, lines 10-15). It fails to teach of re-evaluating and flushing the queue of any unnecessary entries. Saxena teaches of a prefetch threshold, which may change, based on the current load the server is experiencing and disregards the lower priority requests (paragraph 40, lines 6-21).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the prefetch threshold in Saxena with the prefetch prediction model and engine in Shatil et al because by decreasing the number of web pages being prefetched the processing load at the cache server may decrease (Saxena, paragraph 40, lines 12-15).

Claims 10, 20, and 31 disclose the computer program product, method and system of claims 1, 11, and 21 including a model updater, for updating the energy usage parameters of the prefetch prediction model in accordance with energy usage statistics. Shatil et al teaches of a prefetch prediction model, prefetch prediction engine and instructions for storing prefetched files in a queue, and a prefetch optimizer for modifying the prefetch database in response to analysis of cache feedback (column 12, lines 10-17, 26-30, column 13, lines 10-15, 40-44, column 19, lines 40-45). It fails to teach of fetching the files prefetched from a queue. Saxena teaches of storing prefetched files in a cache and when requested sending the file to the client from the cache (paragraph 42, lines 6-18, paragraph 43, lines 1-5).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the storing and retrieving prefetched files method in Saxena with the model, engine, and optimizer in Shatil et al because prefetching of web pages can provide a user increased performance (Saxena, paragraph 6, lines 8-11).

Claim 30 discloses the computer system of claim 21, including a queue pruner, executable by the at least one processing unit, including queue pruning instructions for prioritizing the entries in the queue and for removing from the queue a first entry identifying a previously specified file for which the prefetch prediction engine generated an affirmative prefetch decision, where said first entry is assigned a lower priority than a second entry in the queue. Shatil et al teaches of a prefetch prediction model and engine (column 12, lines 26-30, column 13, lines 10-15). It fails to teach of queue pruning instructions for prioritizing entries in the queue. Saxena teaches of a prefetch threshold, which can prioritize web pages based on the transaction weight of the page. This can allow a file that is first in the cache to be assigned a lower priority than the second file (paragraph 40, lines 6-21).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the prefetch threshold in Saxena with the prefetch prediction model and engine in Shatil et al because by decreasing the number of web pages being

Art Unit: 2141

prefetched the processing load at the cache server may decrease (Saxena, paragraph 40, lines 12-15).

Claims 37, 38, and 39 disclose a computer program product, method, and computer system for performing energy efficient data prefetching in conjunction with a client computer system. Shatil et al teaches of a prefetch prediction engine (column 13, lines 10-15). It fails to teach of a prefetch prediction model based on cost parameters and instructions for storing and fetching files in a queue. Saxena teaches of using transaction weight to determine the importance of web pages when cost parameters are required (paragraph 32, lines 2-15). It also teaches of storing prefetched files in a cache and when requested sending the file to the client from the cache (paragraph 42, lines 6-18, paragraph 43, lines 1-5).

Shatil et al and Saxena are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the storing and retrieving prefetched files method in Saxena with the prefetch prediction model and engine in Shatil et al because prefetching of web pages can provide a user increased performance (Saxena, paragraph 6, lines 8-11).

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malkin et al (US Patent #6,085,193) in view of Shatil et al (US Patent #6,728,840).

Claim 32 discloses a computer system comprising: at least one processing unit for executing procedures containing executable instructions; a server module, executable by the at least one processing unit, for responding to a request from a client

Art Unit: 2141

computer for a specified file and for generating a reply to the request, the reply including a content portion comprising the specified file; and a prefetch predictor, executable by the at least one processing unit, for identifying additional files for possible prefetching by the client computer, wherein criteria for identifying includes energy efficiency criteria; the server module including instructions for including in a supplemental portion of the reply to the request from the client computer prefetch hint information identifying at least one of the additional files, wherein the supplemental portion is distinct from the content portion of the reply. Malkin et al teaches of a data processing system including a server which can run computer executable code (column 6, lines 15-20), a server responds to a request and then processes a response to the client (column 8, lines 38-45), a server generating prefetch hint information on related accesses to the requested information (column 8, lines 41-45), and a server attaches prefetch hint information as meta data piggy backed with the requested information (column 8, lines 41-45). It fails to teach of using energy efficiency criteria. Shatil et al teaches of using various types of criteria to allow access to files (column 11, lines 48-58, column 16, line 56 – column 17, line 8).

Malkin et al and Shatil et al are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the criteria in Shatil et al with the system in Malkin et al because cache memory use is significantly increased which increases overall system performance (Shatil et al, column 12, lines 40-43).

Claim 33 discloses the computer system of claim 32, wherein the prefetch hint information includes predicted prefetch probability information for at least one of the identified additional files. Malkin et al further teaches the prefetched hint information includes probability information (column 12, lines 55-67-column 13, lines 1-6).

Claim 34 discloses the computer system of claim 32, wherein the prefetch hint information includes meta information for at least one of the identified additional files, the meta information selected from the group consisting of file size information, file type information and information indicating a specific relationship to the specified file in the content portion of the reply. Malkin et al further teaches the prefetch hint information is piggy backed as meta data, which is widely known in the art to consist of various types of information (column 8, lines 42-45).

Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malkin et al (US Patent #6,085,193) in view of Shinozaki (US Patent #6,173,392).

Claim 35 discloses the computer system of claim 32, wherein the prefetch hint information includes an initial additional set of files, the computer system further comprising a pruner, for selectively removing at least one file of the initial additional set of files. Malkin et al teaches of the limitations of claim 32 as recited above (column 6, lines 15-20, column 8, lines 38-45). It fails to teach of a pruner, which can remove, files form an additional set of files. Shinozaki et al teaches of a canceller, which can cancel prefetch requests for the additional files to prevent less urgent requests from being prefetched (column 5, lines 60-67, column 6, lines 1-3, 24-29).

Malkin et al and Shinozaki are analogous art because they are both related to data prefetching.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the canceller in Shinozaki with the system in Malkin et al because the canceller prevents less urgent data to be prefetched increasing overall system performance (Shinozaki, column 6, lines 27-29).

Claim 36 discloses the computer system of claim 35, further comprising a prefetch efficiency model, including prefetch efficiency parameters for predicting an impact on energy usage by the client computer that would result from prefetching specified files, coupled to the pruner, the pruner utilizing the prefetch efficiency model to selectively remove the at least one file of the initial additional set of files. Malkin et al further teaches of a prefetching unit, which takes into consideration the impact of storing the object (figure 8, column 15, lines 61-67- column 16, lines 1-8).

Response to Arguments

Applicant's arguments filed November 14, 2005 have been fully considered but they are not persuasive.

Applicant asserts Shatil et al does not anticipate or render obvious "a prefetch prediction engine coupled to the prefetch prediction model for evaluating the specified files with respect to prefetch criteria, including energy efficiency prefetch criteria, and generating a prefetch decision with respect to each file of the specified files". Examiner respectfully disagrees, Shatil et al discloses a prefetch prediction model, prefetch prediction engine and instructions for storing prefetched files in a queues. Shatil et al

discloses comparing the access data against prefetch criteria, which can include various types of data including energy efficiency data (column 11, lines 48-58, column 16, lines 56-67-column 17, lines 1-8) and generating a decision for each file (column 13, lines 21-31).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Gillis whose telephone number is 571-272-7952. The examiner can normally be reached on M-F 7:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2141

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

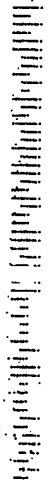
Brian J Gillis
Examiner
Art Unit 2141

BJG



UNITED STATES
SUPERINTENDING CLERK

OLPH



COMMISSIONER OF PATENTS

P.O. BOX 1450

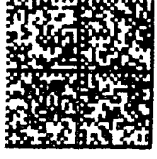
ALEXANDRIA, V. 22313-1450

IF UNDELIVERABLE RETURN IN TEN DAYS

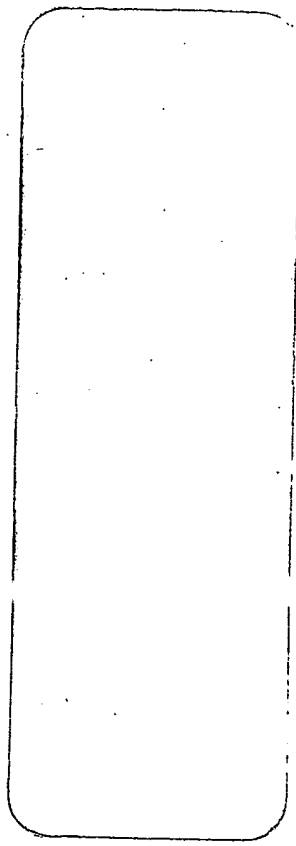
OFFICIAL BUSINESS

AN EQUAL OPPORTUNITY EMPLOYER

U.S. OFFICIAL MAIL
PENALTY FOR
PRIVATE USE \$300
02 1A
0004205065
MAILED FROM ZIP CODE 22313
\$01.11
FEB 06 2006
UNITED STATES POSTAGE
FIRST CLASS
PINKY BOWLES



RECEIVED
FEB 23 2006
USPTO MAIL CENTER



BEST AVAILABLE COPY

PENN300 X943043080 1804 12 02/10/06
RETURN TO SENDER
& EDMONDS
: PENNIE DELIVERABLE AS ADDRESSED
NOT
UNABLE TO FORWARD
RETURN TO SENDER

